

# CCDA Bill Tracking Report

## Text Summary

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### **AB 1521**

Author: Committee on Judiciary

Current Status: 7/16/15 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on JUD.

Current Location: 7/16/15 S-JUD.

Summary based on bill dated 7/16/2015

Existing law provides that individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, public facilities, and other public places, and allows a person who is aggrieved or potentially aggrieved by a violation of specific provisions of law to bring an action to enjoin the violation. Existing law requires an attorney to provide a written advisory with each demand letter or complaint, as defined, sent to or served upon a defendant or potential defendant for any construction-related accessibility claim, as specified.

This bill would require the above-described advisory to include additional information regarding the rights and obligations of business owners and commercial tenants, as specified. In addition to the written advisory, the bill would require an attorney to provide a defendant or potential defendant of a construction-related accessibility claim with an answer form developed by the Judicial Council, which would allow a defendant to respond in the event a complaint is filed, as specified. The bill would, on or before July 1, 2016, require the Judicial Council to update the advisory form and adopt the answer form, as specified.

Existing law authorizes commencement of an action for damages against persons who interfere with these access rights, including, but not limited to, actions against owners and tenants of property for construction-related barriers.

This bill would, with certain exceptions, require the owner of property to which the general public is invited to indemnify a microbusiness tenant, as defined, from liability arising from any construction-related accessibility claims, as specified.

This bill would require that the attorney, or the party in cases where the party is not represented by counsel, certify that specified conditions have been met, including, but not limited to, that the action is not being presented primarily for an improper purpose, such as to harass or to cause unnecessary delay. By expanding the definition of the crime of perjury, this bill would impose a state-mandated local program.

Existing law entitles the prevailing party to recover reasonable attorney's fees.

This bill would, instead, require the court to award costs and reasonable attorney's fees to a prevailing plaintiff, and to award court costs and reasonable attorney's fees to the defendant if the court finds that the plaintiff's case is clearly frivolous.

This bill would, with certain exceptions, require a person who is represented by an attorney and has filed more than 15 lawsuits that allege construction-related

accessibility violations against places of public accommodation within the prior 12 month-period, to seek and obtain approval of the court with respect to settlement of the case.

Existing law authorizes a defendant to file a request for a court stay and an early evaluation conference in the proceedings under certain circumstances, and tolls the period for responsive pleadings.

This bill would specify that these provisions also apply if a defendant is a business that has been served with a complaint filed by a high-frequency litigant, as defined, or is a business requesting an early evaluation conference.

Existing law, upon the filing of an application for a court stay and an early evaluation conference by a defendant, requires the court to immediately issue an order that does certain things, including, but not limited to, scheduling a mandatory early evaluation conference for a date as soon as possible from the date of the order, but in no event later than 70 days after the issuance of the order.

This bill would, if requested by the defendant, require the court order to direct the parties and their counsel to meet at the premises, or other place as specified, no later than 30 days after issuance of the court order, to jointly inspect the premises, and review any programmatic or policy issues, that are claimed to constitute a violation of a construction-related accessibility standard.

Existing law requires that an allegation of a construction-related accessibility claim in a complaint state facts sufficient to allow a reasonable person to identify the basis of the violation, including, but not limited to, a plain language explanation of the specific access barrier or barriers the individual encountered, or by which the individual alleges he or she was deterred.

This bill would, for cases filed by or on behalf of a high-frequency litigant, require the complaint to also state that the complaint is filed by, or on behalf of, a high-frequency litigant, the number of complaints alleging a construction-related accessibility claim that the high-frequency litigant has filed during the 12 months prior to filing the complaint, and the reason why the individual visited the place of public accommodation.

This bill would become operative only if Senate Bill 251 of the 2015-16 Legislative Session, relating to disability access, is enacted on or before January 1, 2016.

Existing law imposes a supplemental fee for filing first papers in certain civil proceedings, including, but not limited to, certain complex cases.

This bill would, in addition to the first paper filing fee, require payment of a single high-frequency litigant fee at an amount established by the Judicial Council, not to exceed \$1,000, at the time of the filing of the first paper if the complaint alleges a construction-related accessibility claim and the plaintiff is a high-frequency litigant, and would make conforming changes related to the distribution of those fees.

Existing Constitutional provisions require a statute that limits the right of public access to meeting or writings of public officials to be adopted with findings demonstrating the interest to be protected by that limitation and the need to protect that interest.

This bill would declare that it includes limitations on access, that the interests to be protected are the privacy rights of the litigants, and that the need to protect those interests is to prevent a chilling effect on litigation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: majority 2/3 . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.